

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THOMAS BLUMENTHAL, III,

Plaintiff,

v.

THOMAS COMBS, *et al.*,

Defendants.

Case No. 12-11859

Honorable John Corbett O'Meara

OPINION AND ORDER
DENYING PLAINTIFF'S MOTION FOR PRELIMINARY INJUNCTION,
DENYING AS MOOT THE MOTION TO INTERVENE,
AND GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

This matter came before the court on the July 5, 2012 motion for preliminary injunction by plaintiff Thomas Blumenthal, III; the July 16, 2012 motion to intervene new plaintiffs; and Defendants' September 7, 2012 motion for summary judgment. Pursuant to Local Rule 7.1(f)(2), no oral argument was heard.

BACKGROUND FACTS

Plaintiff Thomas Blumenthal, III, filed this action under 42 U.S.C. § 1983, alleging "impermissible infringement of familial rights protected by First, Ninth, and Fourteenth Amendments to the Constitution of the United States." Compl. at 1. Plaintiff initiated this action when he was on parole; however, during pendency of the action, Plaintiff was incarcerated due to an alleged parole violation. Defendants are the individual members of the Michigan Parole Board and Plaintiff's parole agent Tara Hamilton.

Plaintiff was incarcerated for production and possession of Child Sexually Abusive Material and Using a Computer to Commit a Crime. He had a nude photograph of his minor niece on his

computer. Plaintiff also had a criminal history, including a prior conviction for Criminal Sexual Conduct involving a five- or six-year old.

After he was released on parole March 20, 2012, Plaintiff filed this lawsuit to challenge parole conditions 1.0, 1.1, and 1.8. Condition 1.0 prohibits contact with persons aged 17 and under; condition 1.1 prohibits Plaintiff from living with anyone aged 17 and under; and condition 1.8 prohibits Plaintiff from possessing children's clothing, toys, games or videos without first obtaining permission from the field agent. At the time of filing suit, Plaintiff also filed a motion for injunctive relief, seeking to lift the challenged conditions. Plaintiff's wife and two minor children subsequently filed a motion to intervene in this matter.

LAW AND ANALYSIS

"The purpose of a preliminary injunction is simply to preserve the status quo." United States v. Edward Rose & Sons, 384 F.3d 258, 261 (6th Cir. 2004). It is not appropriate to grant a preliminary injunction that effectively gives the plaintiff the relief he is ultimately seeking in the litigation. In this case, Plaintiff's motion for preliminary injunction seeks the relief he would achieve if he prevailed at trial. On this basis alone, the court will deny Plaintiff's motion.

In their motion for summary judgment, Defendants assert that the parole board has modified Plaintiff's conditions of parole, and condition 1.0 has been removed. Plaintiff is allowed to have supervised contact with his children. Nothing in Plaintiff's response brief disputes the assertion. Since the filing of Plaintiff's response in October 2012, this action has remained dormant. Therefore, the court presumes that the issues have been rendered moot by parole conditions that have been modified since Plaintiff filed his complaint; and the court will grant Defendants' motion for summary judgment.

ORDER

It is hereby **ORDERED** that Plaintiff's motion for preliminary injunction is **DENIED**.

It is further **ORDERED** that Defendants' motion for summary judgment is **GRANTED**.

It is further **ORDERED** that the motion to intervene is **DENIED AS MOOT**.

s/John Corbett O'Meara
United States District Judge

Date: March 13, 2013

I hereby certify that a copy of the foregoing document was served upon the parties of record on this date, March 13, 2013, using the ECF system and/or ordinary mail.

s/William Barkholz
Case Manager